

Appeal Decision

Site visit made on 20 February 2024

by Phillip J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/C5690/W/23/3327547

1 Harton Street SE8 4PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Guanock Holdings against the decision of the Council of the London Borough of Lewisham.
- The application Ref DC/23/131531, dated 15 May 2023, was refused by notice dated 13 July 2023.
- The application sought planning permission for the construction of a mansard roof extension at 1 Harton Street SE8, together with a three storey extension to the rear, in connection with the change of use, alteration and conversion and reconfiguration to provide 7, one bedroom self-contained flats, 4 two bedroom self-contained flats and a three bedroom town house, together with alterations to the front elevation. without complying with two conditions attached to planning permission Ref DC/21/122706, dated 14 September 2021.
- The conditions in dispute are Nos 2 and 6 which state that:

The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below [list of plans].

No development above ground (excluding demolition) shall commence on site until detailed drawings at a scale of 1:10 including horizontal and vertical sections and elevations showing of the new windows and external doors have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- The reasons given for the conditions are:

To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

To ensure that the local planning authority may be satisfied as to the external appearance of the building(s) and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

Decision

1. The appeal is dismissed.

Main issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the building, the Conservation area and the setting of a listed building.

Reasons

3. The building is located on the south side of Deptford Broadway, with a long frontage down Harton Street. Deptford Broadway is wide at this point, and incorporates a major road junction, and this increases the visibility of the appeal premises when viewed from the north.
4. The surrounding area includes a mix of buildings, including buildings on Deptford Broadway of similar age, and more modern buildings elsewhere. The appeal building itself is classified by the Council as a non-designated heritage asset and is within the Deptford High Street and St Paul's Church Conservation Area – in which it is identified as making a positive contribution. The Conservation Area has ancient origins but was not fully developed until the mid-nineteenth century. Vertical sliding sash windows are a characteristic feature of these buildings.
5. 17-21 Deptford Broadway is a Grade II listed building. There is some debate between the parties as to the extent of intervisibility, but it is clear to me that the appeal premises are visible from the listed building. However given the distance and the intervening dominant major road, I am not persuaded that the appeal building is part of the setting of the listed building.
6. The appeal building has had a number of alterations since it was constructed and apparently traded as a bank for most of its life. More recently it has housed a number of uses. It is a high quality corner building in yellow brick with a stucco shopfront and a dentilled parapet cornice which makes a strong design statement.
7. The existing windows are single glazed sashes, apparently mostly replacements stated to be following a fire in the 1980s. There are some variations in the pane arrangements, and the windows include sashes concealed in boxes.
8. The application relates to triple glazing replacement windows to assist with the renovation of the building to the Passivhaus EnerPHit standard. To reach this standard a high standard of insulation is required, and this is largely not contested by the Council.
9. The applicant refers to the proposed timber windows as being a 'like for like' replacement and being 'virtually indistinguishable' from the originals, down to the horns on the sashes. Considerable detail of the proposed windows has been submitted. This is supported by photographic evidence of similar windows.
10. However, from what has been submitted, part of the proposed windows would be overly thick in comparison with those existing and would not match or complement the existing windows in the building or the area. In particular the meeting rail would appear to be 60mm as opposed to the original 25mm. It

could be argued that this sort of variation is insignificant, but overall I consider the proposed windows would not be in keeping with the original and characteristic windows in the area.

11. The new windows would be tilt and turn openable, although the appellant states that they would never be opened in normal operation as this would defeat the object of the Passivhaus approach (to which I return below). However there is no guarantee that these would not be opened in normal usage for ventilation or to enable a sense of interaction with the outside world. If the windows were open it would be even more readily apparent that they did not match those in the surrounding area. There is no suggested legal mechanism to ensure that the windows remained closed aside from cleaning.
12. Overall, I consider that the proposal would be harmful to the character and appearance of the building and the conservation area. I will return to the heritage balance below.
13. For that reason the proposal would conflict with a number of development plan policies. In particular the policy HC1 of the London Plan (2021) requires the conservation of the significance of the setting of heritage assets and specifically refers to the cumulative impact of proposals. This approach is followed by policies 15 and 16 of the Lewisham Core Strategy (2011) and policies 30, 31, 36 and 37 of the Lewisham Development Management Local Plan (2014) (DM). These policies emphasise the importance of good design and the protection of non-designated and designated heritage assets.

Other matters

14. The appellant stresses that the windows are required to achieve Passivhaus EnerPHit standard. The advantages of the Passivhaus approach, which is a whole building approach with measured targets to achieve energy efficiency and thermal performance, are stressed.
15. The Council's position is that energy efficient measures have already been built into the scheme as approved, and has suggested that other additional measures could be explored. In addition the authority notes that the achievement of this particular standard is not a policy requirement, although DM36 encourages the adaptation of historic buildings to improve energy efficiency in line with Historic England Guidance.
16. As far as I am aware, whilst the Passivhaus standard is encouraged, there is no requirement to design to that standard. Nor am I aware of any s106 obligation in respect of monitoring and reporting of the post-construction energy performance.
17. That said, the intended energy efficiency credentials of the scheme represent a limited positive benefit to be weighed in the balance.
18. The appellant maintains that, as part of the planning history of the building, triple glazing has already been approved. On the other hand the Council states that no reference was made to tilt and turn opening. In any event, the disagreement as to what has been previously approved is not one which is of particular significance and is not before me. I have to decide this appeal on the basis of the information before me.

Overall balance and conclusion

19. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of any buildings or other land in a conservation area.
20. I have already identified that the proposal would harm the character of the conservation area. This would be less substantial harm in the language of the National Planning Policy Framework (the Framework). The Framework provides that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. For non-designated assets, the Framework details that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
21. As required by the Framework, great weight is given to the harm to the significance of the designated heritage assets, although the harm in this case is moderate at most. The proposal would also directly affect a non-designated heritage asset, causing moderate harm to the significance of that asset.
22. The benefit I have identified above would be a public benefit in the heritage balance, but it falls well short of outweighing the harm to the designated and non-designated heritage assets. Thus the heritage harm provides a clear reason to refuse the development.
23. For the above reasons I dismiss the appeal.

P. J. G. Ware

Inspector